

## REMARKS

1. In response to the Office Action mailed May 30, 2008, Applicant respectfully requests reconsideration. Claims 1-14, 24-26, and 29 were last presented for examination. In the outstanding Office Action, claims 1-8, 10-14, 24-26 and 29 were rejected and claim 9 was objected to. By the foregoing Amendments, claims 1, 24 and 26 have been amended. Claim 30 has been added and no claims have been cancelled. No new matter has been added. Upon entry of this paper, claims 1-14, 24-26 and 29-30 will be pending in this application. Of these nineteen (19) claims, 3 claims (claims 1, 24 and 26) are independent.

2. Based upon the above Amendment and following Remarks, Applicant respectfully requests that all outstanding objections and rejections be reconsidered, and that they be withdrawn.

### *Allowable Subject Matter*

3. Claim 9 is objected to but has been indicated as being allowable if rewritten in independent form including all of the limitations of the base and any intervening claims. Independent claim 1, which claim 9 depends from, has been amended above. Applicant asserts that as the base claim from which claim 9 depends is patentable, claim 9 is and remains patentable.

### *Claim Rejections under §102(b) – Diaz*

4. Claims 1-8, 10-11, 13-14, 24-26 and 29 are rejected under 35 USC 102(b) as being anticipated by U.S. Patent No. 5,824,026 to Diaz (“Diaz”). Applicant asserts that independent claims 1, 24 and 26, as presently amended, are not anticipated by Diaz.

5. **Diaz** is directed to “a catheter for delivering electrical energy to a... region of a patient’s body [having] at least one layer of fibers with at least one electrically conductive fiber stranded over a flexible core.” (*See*, Diaz, Abstract.) Diaz describes each layer of fibers being “stranded... opposite in direction from that of the immediately preceding layer so as to provide a catheter with good torque transfer properties in addition to its electrical energy transfer properties.” (*See*, Diaz, Abstract.) In an exemplary embodiment of Diaz, a first layer of stranded fibers 34 and a second layer of stranded fibers 42 are described. (*See*, Diaz, col. 5, ll. 34-36.) Diaz describes forming a “contact region 20” by “stripping away the corresponding

material from the electrically insulating surface layer 17.” (See, Diaz, col. 7, ll. 5-8; FIG. 1.) As one example of its use, Diaz describes “deliver[ing] defibrillation pulses to a patient’s heart through the contact region 20. The outer insulating layer 17 and the first electrically insulative layer 44 ensure that the third layer of stranded fibers 46 is electrically isolated everywhere except at the proximal end 12 of the catheter 10, and at the contact region 20.” (See, Diaz, col. 7, ll. 15-20.) The fibers stranded around its core are said to form “an electrically conductive cylindrical shell [which] improves as the number of fibers increases.” (See, Diaz, col. 6, ll. 39-41.) Diaz explains that “a plurality of wires which carry an electrical current to the surface contact region [20] has a lower overall resistance than a single wire of the same material... Therefore, the stranded wires allow the current to be spread over a region which approximates a cylindrical shell of current... This is particularly true when the wires are stranded so closely together that they are in contact with the immediately adjacent fibers.” (See, Diaz, col. 8, ll. 36-46.)

6. Claims 1, 24 and 26, as amended above, recite in part, “an electrically conductive element... having first and second ends and comprising a plurality of layers, each said layer comprising a plurality of electrical conductors... wherein ***first ends of each of said conductors at the first end of said conductive element are correspondingly identifiable at said second end of said conductive element as second ends of each of said conductors, based on the corresponding position within said conductive element of each of said first and second ends of said conductors with respect to the positions of the other conductors.***” (See, Applicant’s amended claim 1; emphasis added.)

7. As noted above, while Diaz describes a catheter having fibers extending from both ends of the catheter in a helical configuration, Diaz does not describe configuring its fibers such that the “first ends of each of said conductors at the first end of said conductive element are correspondingly identifiable at said second end of said conductive element as second ends of each of said conductors, based on the corresponding position within said conductive element of each of said first and second ends of said conductors with respect to the positions of the other conductors” as recited in Applicant’s independent claims 1, 24 and 26. To the contrary, Diaz is not concerned with maintaining the various fibers separated from each other and in such a manner that each end of each conductor can be identified or matched up based on their position in the conductor layers. For at least this reason, Applicant asserts that Diaz does not anticipate

the claimed invention, as presently amended, and accordingly respectfully requests that this rejection be reconsidered and withdrawn.

***Claim Rejections under §102(e) – Wessman***

8. Claims 1-4, 10-12, 14 and 26 are rejected under 35 USC 102(e) as being anticipated by U.S. Patent No. 7,149,585 to Wessman *et al.* (“Wessman”). Applicant asserts that independent claims 1 and 26, as presently amended, are not anticipated by Wessman.

9. **Wessman** discloses a “medical electrode catheter” having a lead body having inner and outer insulators and one or more conductors, where the inner and outer insulators are fused together with the one or more conductors therebetween to “electrically isolate the conductors from one another”, between the fused insulators. (*See*, Wessman, col. 2, ll. 29-32.) As shown in FIGS. 2 through 4 of Wessman, conductor 16 is wound around an inner insulator 14 and then an outer insulator 18 is positioned on top of the wound conductor 16 and inner insulator 14. “Once outer insulator 18 has been provided over conductors 16, outer insulator 18 is fused to inner insulator 14 by heating the lead body or alternatively, outer insulator 18 is fused to non-conductive spacer 20 and non-conductive spacer 20 is fused to inner insulator by heating the lead body.” (*See*, Wessman, col. 6, ll. 11-16.) Wessman states that its lead is designed to provide a reduced diameter lead which is small enough to “allow more efficient valve function than their standard diameter counterparts when the lead passes through the valves in the heart... [and also to] allow access to smaller veins without compromising blood flow.” (*See*, Wessman, col. 1, ll. 59-64.) Furthermore, Wessman states that its described method for forming its lead “allows for more precise control and tighter tolerances during manufacture... [and] a lead body that does not destroy the integrity of coverings” during manufacture. (*See*, Wessman, col. 2, ll. 12-18.)

10. As noted above, independent claims 1 and 26, as amended above, recite in part, “an electrically conductive element... having first and second ends and comprising a plurality of layers, each said layer comprising a plurality of electrical conductors... wherein ***first ends of each of said conductors at the first end of said conductive element are correspondingly identifiable at said second end of said conductive element as second ends of each of said conductors, based on the corresponding position within said conductive element of each of said first and second ends of said conductors with respect to the positions of the other***

*conductors.*” (See, Applicant’s amended claim 1; emphasis added.) As noted above, Wessman is directed to providing a reduced-diameter lead wherein the spiral-wrapped conductors are secured between inner and outer insulating layers. No where does Wessman teach or suggest having a plurality of layers of a plurality of conductors, wherein the first and second ends of those conductors are identifiable at first and second ends of the conductive element, as is the case with Applicant’s claimed invention.

11. Therefore, Wessman does not anticipate the Applicant’s independent claims 1 and 26, and Applicant respectfully requests that this rejection be reconsidered and withdrawn. As neither Diaz nor Wessman, alone or in combination with each other or any other art of record, anticipates Applicant’s claimed invention, Applicant respectfully requests that these rejections under 35 USC §102(b) and (e) be reconsidered and that they be withdrawn.

#### ***Dependent Claims***

12. The dependent claims incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them independently patentable over the art of record. Accordingly, Applicant respectfully asserts that the dependent claims are also allowable over the art of record.

#### ***Conclusion***

13. In view of the foregoing, this application should be in condition for allowance. A notice to this effect is respectfully requested.

14. Applicant reserves the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application, cancellations and amendments of above claims, therefore, are not to be construed as an admission regarding the patentability of any claims and Applicant reserves the right to pursue such claims in a continuation or divisional application.

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Respectfully submitted,

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